

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46787 of 2018

Applicant :- Satya Pal

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajesh Shukla, Pankaj Kumar Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Misra, J.

1. Heard Mr. Rajesh Shukla, the learned counsel for applicant and the learned A.G.A. for State.

2. Perused the record.

3. This repeat application for bail has been filed by applicant-Satya Pal seeking his enlargement on bail in Case Crime No. 612 of 2015, under Section 302 IPC, Police Station-Phase 3 Noida, District-Gautam Buddh Nagar during the pendency of trial.

4. The first bail application of applicant was rejected by this Court by a detailed order dated 26.07.2017 passed in Criminal Misc. Bail Application No. 25070 of 2017 (Satya Pal Vs. State of U.P.). For ready reference, the order dated 26.07.2017 is reproduced hereinunder:-

"Heard learned counsel for applicant, learned A.G.A. and perused the record.

This bail application has been preferred by the accused-applicant, Satya Pal, who is involved in Case Crime No. 612 of 2015, under Section 302 I.P.C., P.S.- Phase-3 Noida, District- Gautambudh Nagar.

Learned counsel for the applicant in support of his prayer for bail submits that the applicant is innocent and he has been falsely implicated in the present case. It is further submitted that there is no direct evidence of the occurrence, witnesses are planted, on the date of occurrence applicant had gone to visit his sister, he was not at the spot, applicant has no previous criminal history, from the statement of landlord presence of star witness Kumari Hemlata stands belied. In collusion with the first informant, police has concocted a false case against the present applicant.

On behalf of State bail has been opposed and it has been submitted that the applicant and the deceased were living as husband and wife along with step daughter of the applicant. Learned Additional Government Advocate

further submits that Kumari Hemlata daughter of the deceased has fully supported the prosecution version that between the applicant and the deceased relations were acrimonious, applicant on the fateful night had taken the deceased in the room under threat. In the morning room of her mother was locked and the applicant was missing, when landlord came and broken the lock her mother was found murdered.

The FIR has been lodged on 21.06.2015, incident had occurred on the previous night, statement of Kumari Hemlata was recorded on 22.06.2015, there is no reason for false implication of the applicant in this crime, hence bail application of the present applicant is rejected"

5. Learned counsel for applicant submits that applicant is in jail since 03.08.2015. However, in spite of the fact that a period of more than 8 years and 2 months has rolled by, the trial of the applicant has not yet concluded. With reference to the order sheet, he contends that up to this stage, the statement in chief/examination in chief of 5 prosecution witnesses have been examined. PW-6 is the Investigating Officer. After his statement in chief was recorded, he has been evading the process of Court. Consequently, an adverse order was passed against PW-6 by court below vide order dated 12.03.2020. The order sheet of the concerned Sessions Trial up to 14.07.2022 has also been brought on record. However, the learned counsel for applicant is unable to inform the Court with regard to the subsequent events after 14.07.2022 even though, a period of more than 1 year and 3 months has rolled by from the last date mentioned in the order sheet.

6. On the above premise, it is thus urged by the learned counsel for applicant that since the applicant is in custody and the trial is proceeding at the snail's pace, therefore, the applicant be enlarged on bail. Since the applicant is in custody, he cannot be held responsible for delay in conclusion of trial. It is thus urged that applicant is liable to be enlarged on bail. In case, the applicant is enlarged on bail, he shall not misuse the liberty of bail and shall co-operate with the trial.

7. Per contra, the learned A.G.A. has opposed the prayer for bail. He submits that since applicant is a named/charge sheeted accused, therefore, he does not deserve any indulgence by this Court. There is no deliberate negligence on the part of the prosecution to delay in conclusion of the trial. There is nothing on record to show the progress of the trial after 14.07.2022. Since there is no deliberate delay on behalf of the prosecution in conclusion of the trial, therefore, the submission urged by the learned counsel for applicant that applicant be enlarged on bail on the aforesaid ground

is not liable to be accepted by this Court. Considering the nature and gravity of offence, the period of incarceration undergone by applicant cannot be said to be so sufficient so as to enlarge the applicant on bail. On the above conspectus, the learned A.G.A. submits that no new or good ground has emerged to enlarge the applicant on bail.

8. When confronted with above, the learned counsel for applicant could not overcome the same.

9. Having heard, the learned counsel for applicant, the learned A.G.A. for State, upon perusal of record, evidence, nature and gravity of offence, complicity of applicant, accusations made coupled with the fact that the applicant has been charge sheeted for an offence under Section 302 IPC, the period of incarceration undergone by applicant is by itself not so sufficient so as to enlarge the applicant on bail, the prosecution cannot be held responsible for the delay in conclusion of the trial inasmuch as, PW-6 is the Investigating Officer and he alone is not participating in the progress of the trial, as is evident from the order sheet of the Sessions Trial pending before court below up to 14.07.2022, in the absence of the subsequent events, which may have occurred after 14.07.2022, the true and correct position of the trial not being before the court, no adverse inference can be drawn against prosecution, therefore, irrespective of the varied submissions urged by the learned counsel for applicant in support of this repeat application for bail, but without making any comments on the merits of the case, this Court does not find any good or sufficient ground to enlarge the applicant on bail.

10. As a result, present repeat application for bail fails and is liable to be rejected.

11. It is accordingly **rejected**.

Order Date :- 27.10.2023

Vinay